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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,875	10/29/2003	Hirotooshi Ariga	244665US3	4118

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EXAMINER

ENGLE, PATRICIA LYNN

ART UNIT	PAPER NUMBER
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3612

DATE MAILED: 08/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/694,875

Applicant(s)

ARIGA ET AL.

Examiner

Patricia L Engle

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 15 and 16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14, 17 and 18 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of claims 1-14, 17 and 18 in the reply filed on July 15, 2004 is acknowledged. The traversal is on the ground(s) that searching the entire application would not create a burden on the Examiner. This is not found persuasive because the product could be made by another method (such as molding the mount sections at the designated spacing which would not require removing material).

The requirement is still deemed proper and is therefore made FINAL.

Priority

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Objections

3. Claim 10 is objected to because of the following informalities: Claim 10 should depend from claim 8 (or claim 9) not claim 5. Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-14, 17 and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Ito et al. (US Patent 6,644,700)

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention “by another,” or by an appropriate showing under 37 CFR 1.131.

Regarding claim 1, Ito et al. disclose a bumper spoiler (S) to be mounted on a bumper (B) of a vehicle, comprising: a bumper spoiler main body section (10) to be disposed to orient toward a roadbed on which the vehicle travels, when mounted on the bumper; a plurality of insert/mount sections (23) each formed on a back of the spoiler main body section (10) integrally therewith to protrude rearward of the vehicle; and a plurality of fixing sections (24) integrally formed on the plurality of insert/mount sections (23) respectively and each protruding from a position between the bumper spoiler main body section (10) and a rear end of each of the insert/mount section (23) to be fixed to the bumper (the gripping lips 24 are equivalent to the fixing section 27 of Fig. 12 of the current application- therefore the lips 24 are “fixed” to the bumper).

Regarding claim 2, Ito et al. disclose the bumper spoiler according to claim 1, wherein the plurality of fixing sections (24) are capable of being fixed in the vicinities of a plurality of mount holes formed in the bumper (Fig. 8).

Regarding claim 3, Ito et al. disclose the bumper spoiler according to claim 1, wherein the plurality of fixing sections (24) have substantially the same cross-section (Fig. 5) in a longitudinal direction of the spoiler main body section (10).

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Regarding claim 4, Ito et al. disclose the bumper spoiler according to claim 1, further comprising a fitting base section (21) extending along the spoiler main body section; wherein the fitting base section is integrally formed with the plurality of insert/mount sections (23, Fig. 8).

Regarding claim 5, Ito et al. disclose the bumper spoiler according to claim 1, wherein the plurality of insert/mount sections (23) includes at least an insert/mount section having a fastening member mount portion (23a) for attaching a fastening member (40).

Regarding claim 6, Ito et al. disclose the bumper spoiler according to claim 5, wherein the fastening member mount portion (23a) is formed at a position where the fastening member (40) attached to the fastening member mount portion (23a) does not interfere with the fixing section (24).

Regarding claim 7, Ito et al. disclose the bumper spoiler according to claim 5, wherein the fastening member mount portion (23a) is a fastening member insert hole (23a) into which the fastening member (40) can be inserted.

Regarding claim 8, Ito et al. disclose the bumper spoiler according to claim 1, wherein the plurality of insert/mount sections (23) includes an insert/mount section with a fastening member insert hole (23a) for attaching a fastening member and an insert/mount section without the fastening member insert hole (in Fig. 8 between the bumper and the hole 23a).

Regarding claim 9, Ito et al. disclose the bumper spoiler according to claim 8, wherein the fastening member insert hole (23a) is formed at a position where the fastening member (40) attached to the fastening member mount hole (23a) does not interfere with the fixing section (24).

Regarding claim 10, Ito et al. disclose the bumper spoiler according to claim 8 5, wherein the insert/mount section (23) with a fastening member insert hole (23a) and the insert/mount section without the fastening member insert hole are arranged alternately with each other (Fig. 8).

Regarding claim 11, Ito et al. disclose the bumper spoiler according to claim wherein the spoiler main body section (10) is formed from soft, flexible material (column 4, lines 46-49) which does not undergo any deformation excess of a limit when subjected to air resistance developing during the course of travel of a vehicle; the plurality of insert/mount sections (23) are formed from material which is hard and higher in rigidity than a material of the spoiler main body section (column 4, lines 52-55); and the back of the spoiler main body section and extremity base portions of the plurality of insert/mount sections are joined integrally with each other (column 6, lines 64-66).

Regarding claim 12, Ito et al. disclose the bumper spoiler according to claim 1, wherein the spoiler main body section (10) and the insert/mount sections (23) are made of at least one of rubber and a thermoplastic elastomer material (column 4, lines 46-57).

Regarding claim 13, Ito et al. disclose the bumper spoiler according to claim 1, further comprising: a core material (25) made of a material higher in rigidity and expansion-and-contraction resistance than the spoiler main body section and the insert/mount sections (column 6, lines 24-27), the core material (25) embedded in the longitudinal direction in an area on the back of the spoiler main body section where the plurality of insert/mount sections are to be joined (Fig. 3).

Regarding claim 14, Ito et al. disclose the bumper spoiler according to claim 1, wherein the plurality of fixing sections (24) are formed on one of upper and lower sides (Fig. 8) of the respective insert/mount sections (23); and, when the spoiler (S) is attached to the bumper (B), the plurality of fixing sections (24) are elastic in a direction moving away from the plurality of insert/mount sections (the fixing sections are elastic in a direction moving away from the mount section and therefore touches the bumper member, the fixing sections are shown in Fig. 8 to be moved toward the mount section, but the lower fixing section shows that they are elastic away from the mount), thereby enabling the plurality of insert/mount sections to be pressed against corresponding areas on the bumper.

Regarding claim 17, Ito et al. disclose a bumper structure of a vehicle, comprising: a bumper (B) of the vehicle (V); and a bumper spoiler (S) attached to the bumper; wherein the bumper (B) includes a mount portion (1) formed in a transverse direction of the vehicle, and a plurality of mount holes (7) formed at predetermined intervals in the transverse direction of the vehicle, penetrating through the mount portion (1); and the bumper spoiler includes: a bumper spoiler main body section (10) to be disposed to in a substantially vertical direction when mounted on the bumper; a plurality of insert/mount sections (23) each formed on a back of the spoiler main body section (10) integrally therewith to protrude rearward of the vehicle; and a plurality of fixing sections (24) integrally formed on the plurality of insert/mount sections (23) respectively and each protruding from a position between the bumper spoiler main body section (10) and a rear end of each of the insert/mount section (23) to be fixed to the bumper (the gripping lips 24 are equivalent to the fixing section 27 of Fig. 12 of the current application- therefore the lips 24 are "fixed" to the bumper).

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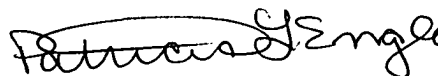
Regarding claim 18, although Ito et al. does not disclose that the mount holes (7) are of a greater dimension than the mount sections of the spoiler, the Examiner takes Official Notice that it would have been inherent to do so to accommodate manufacturing tolerances.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia L Engle whose telephone number is (703) 306-5777. The examiner can normally be reached on Monday - Friday from 8:00 to 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, D. Glenn Dayoan can be reached on (703) 308-3102. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Patricia L Engle
Examiner
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August 5, 2004